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Tax haven policy for Finnvera's financing operations

1. Background

Tax havens refers to countries which have low or non-existent taxation and strict bank secrecy, but no international agreements or legislation on transparent ownership. Tax havens can be exploited in tax evasion, and they also form a high risk of money laundering activities. Efforts are made to prevent their illegal use both in Finland and internationally.

Tax havens can be utilised in many ways in both legal and illegal activities. Usually, the use of an enterprise in a tax haven is just a smokescreen in making ownership relations more difficult to detect. In this case, the enterprise's registration state may be a distant island state in the Caribbean but its bank accounts may still be in Europe, usually in Luxembourg or Switzerland.

Transferring a person's or an enterprise's assets to an enterprise registered in a tax haven does not automatically constitute tax evasion. There may be other personal reasons for this. Assets can be legally transferred to an enterprise in a tax haven but this yields hardly any taxation benefits if Finland's tax legislation is complied with.

Using an enterprise in a tax haven constitutes tax evasion when a person or enterprise subject to taxation in Finland fails to notify Finnish tax administration of income channelled into an enterprise in a tax haven, for which it should pay taxes to Finland.

2. Regulation related to tax havens

The European Union is working to improve tax good governance on a global level. It is doing this in order to maximise efforts against tax fraud, evasion and avoidance. For this purpose, on 5 December 2017 the Council of the European Union approved the EU list of jurisdictions that are non-cooperative in tax matters, *the so-called black list* (<https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/>). The list includes non-EU countries or territories that have failed to make sufficient commitments in response to EU concerns.

Blacklisted states share the following characteristics:

- There is no efficient exchange of taxpayer information with the authorities of other states. Information about financing and ownership, for instance, is disclosed to an insufficient extent or not at all.
- Taxes are not collected for income and assets of people living abroad or taxation is scarce and there are taxation advantages available specifically for people living abroad
- The state does not apply generally accepted minimum standards of good governance and corporate responsibility.

The EU does not grant financing to a party located in a country that is on the black list. As the list is continuously monitored and updated, countries may be added to and removed from the list.

In addition to the black list, the EU has a more extensive list of countries being monitored. These countries have committed to meeting the EU's taxation-related cooperation obligations by a certain date and, consequently, are monitored by the EU. The states on the grey list are not subject to a financing prohibition but these states involve a higher risk of being included on the black list.

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Alongside the EU, the OECD promotes a good global taxation standard and maintains its own classification list of states as far as the openness of taxation-related information exchange (<https://www.oecd.org/tax/transparency/exchange-of-information-on-request/ratings/>). The EU and the OECD act in complementary cooperation in tax matters.

When Finnvera grants an SME Guarantee in domestic financing, it utilises the European Investment Fund's COSME financing. One prerequisite for granting EU financing is compliance with the EU's and the OECD's taxation standards that are valid at that moment.

According to the agreement related to COSME financing, the client enterprise or the bank may not be registered in a state that is on the EU's or the OECD's list of states that are non-cooperative in tax matters. Furthermore, the client enterprise must be committed to constant compliance with standards related to the prevention of terrorism, money laundering, tax fraud and shadow economy as well as legislation valid at that moment.

3. Cornerstones of Finnvera's tax haven policy

Finnvera expects that its client enterprises comply with applicable tax regulations and also otherwise strive to apply good practices in tax matters by reporting and paying their taxes diligently and on time and by conducting business specifically for commercial purposes and not for tax evasion purposes.

Finnvera's role as a public provider of financing, on one hand, and as a body channelling EU assets to domestic enterprises, on the other hand, requires Finnvera to ensure that the enterprises it finances do not evade taxes with the aid of tax havens. In this, Finnvera's operations are based on the above-mentioned taxation standards created by the EU and the OECD and the so-called tax haven lists defined in these standards.

Finnvera's practical measures for implementing its tax haven policy include identifying tax haven connections, as defined by the EU and the OECD, in financing transactions as well as requiring client enterprises to have separate tax policies or commitment declarations in these cases to ensure that the enterprise appropriately complies with tax regulation in its operations and in the financing transaction in question.

Finnvera does not grant financing to a client enterprise subject to a high risk of tax fraud or tax evasion.

This policy confirms the guidelines and procedures of Finnvera's operating model for tax havens.

4. To which products and parties does the procedure apply?

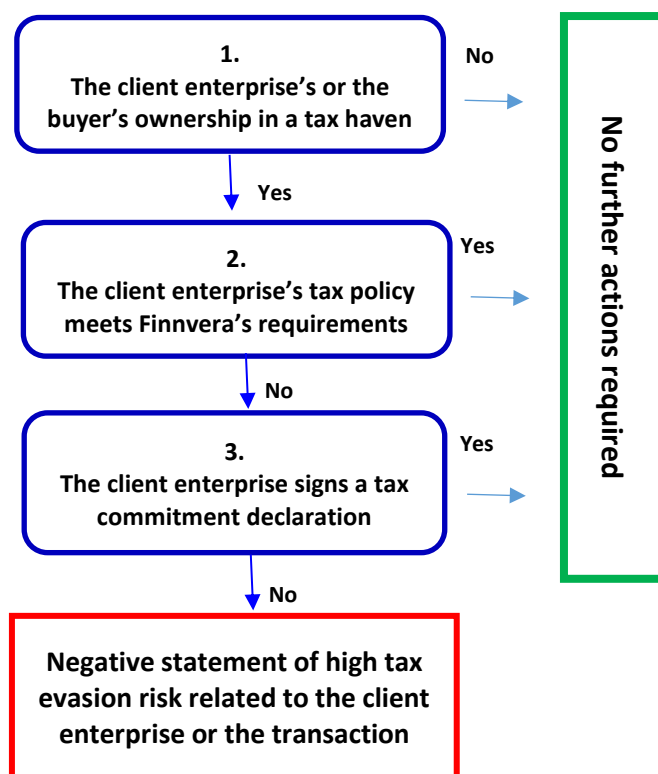
Finnvera's tax haven policy covers Finnvera's domestic and export financing operations.

The aim of the policy is to manage tax evasion risks related to the client enterprises of Finnvera's domestic financing and the exporter enterprises of export financing.

In addition, the buyer parties involved in export financing transactions are screened for all guarantee products apart from Letter of Credit Guarantee and Bank Risk Guarantees with a term of less than two years. The purpose of this is to manage the tax evasion risk associated with the financing transaction.

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5. Operating process



Phase 1: Identifying the tax haven connection

Is the ownership of a *domestic or export financing* client enterprise fully or partially on a so-called tax haven black list published by the EU or the OECD?

Is the ownership of an *export financing* buyer fully or partially on a so-called tax haven black list published by the EU or the OECD? (See Appendix 1.)

Phase 2: Checking the client enterprise's tax policy

If the ownership of a domestic or export financing client enterprise or an export financing buyer enterprise is fully or partially in a tax haven, Finnvera's client enterprise will be subject to the following measures in the transaction in question.

Finnvera requests the client enterprise's tax policy and ensures that the policy includes at least the following commitments according to the OECD Guidelines for Multinational Enterprises¹.

- The enterprise must comply with the applicable tax laws and the OECD Transfer Pricing Guidelines (unless the transfer pricing guidelines conflict with compulsory national regulations).

¹ OECD Guidelines for Multinational Enterprises 2011 Edition. <http://mneguidelines.oecd.org/guidelines/>

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- The enterprise should not participate in business transactions, the sole or primary purpose of which is to evade or reduce taxes.
- The enterprise must promote openness towards tax authorities.

If the client enterprise does not have a tax policy or if it does not wish to present its tax policy or if the tax policy does not meet the above requirements, the enterprise must sign a separate commitment declaration (Phase 3).

Phase 3: The enterprise's commitment declaration

If the client enterprise does not have a tax policy or the tax policy does not meet the good taxation standard requirements listed above, Finnvera requires the client enterprise to provide a written commitment declaration of its compliance with the above requirements. For commitment declaration models, see Appendices 2 and 3.

The checking of a client enterprise's tax policy or an enterprise's commitment declaration is valid for one (1) year. After this, a new check of the tax policy must be conducted or a new commitment declaration must be provided if the enterprise applies for financing from Finnvera and a tax haven state, as defined in the policy, is associated with the transaction.

6. Decision-making

If the client enterprise's tax policy meets Finnvera's requirements or if the enterprise provides the above-mentioned written commitment declaration, the financing decision can be made on the same decision-making level as usually. In other cases, the financing decision must be made higher up in the decision-making chain.

Finnvera does not grant financing to an enterprise subject to a high risk of tax fraud or tax evasion. This may be the case if the ownership of the client enterprise or the financing transaction buyer is in a state that is considered non-cooperative in tax matters according to the EU's or the OECD's black list and the client enterprise refuses to provide a tax commitment declaration or does not have a separate tax policy. Furthermore, discussions between Finnvera and the client enterprise may give a justified reason for considering there to be a significant risk that the client enterprise does not meet the regulatory taxation requirements.

In addition, Finnvera must take into account the more specific contractual obligations set for EU financing, if any, in its decision-making related to the risk of tax evasion.

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Annex 1. Commitment declaration

Customer's Code of Conduct - Tax

Finnvera expects that customer with which Finnvera has a direct or indirect relationship (a "**Finnvera Counterparty**") does not engage in aggressive tax planning and that it is transparent in its interactions with tax authorities. Therefore, Finnvera requires that:

- The Finnvera Counterparty complies with all applicable tax laws and regulations and with the OECD Transfer Pricing Guidelines (unless the Guidelines are contrary to local laws or regulations).
- The Finnvera Counterparty does not engage in transactions whose whole or main purpose is to avoid or reduce taxes.
- The Finnvera Counterparty seeks to be transparent in its interactions with tax authorities.

The undersigned, [*name of company*], hereby confirms that it satisfies and will continue to satisfy the above-mentioned requirements.

[*Signature, Exporter/asiakas*]